



State of Washington  
Department of Revenue

# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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## DONATIONS TO MEAL PROVIDERS

Issued March 13, 1981

Prepared meals served for consumption on the premises or where consumption facilities (tables, chairs, trays, dishes, utensils, etc.) are provided are generally subject to the retail sales or use tax and the exemptions for food products provided by RCW 82.08.0284 and RCW 82.12.0278 do not apply. However, effective June 12, 1980, these statutes extend the exemptions to such meals when furnished under a state administered nutrition program for the aged as provided for in the Older American Act, Public Law 95-478 Title III and RCW 74.38.040(6). Meals served under such programs as well as the food products used in preparing such meals are tax exempt whether or not charges are made for such meals.

Operators of social service programs, other than exempt Older American Act authorized programs, sometimes provide and serve free meals to senior citizens, indigents, and others. Some of those served contribute voluntary donations to these programs. It has been represented to the department that no sale occurs, that the meals are free of charge and that any money received is strictly a voluntary donation to support the program rather than being a required payment. If all of these conditions are satisfied, sales tax is not required to be collected from the meal consumer.

Providers of such free meals need not pay sales tax upon their purchases of food products to prepare such meals. Neither is use tax due on the value of such meals given away by these non-retailer providers. (Initiative 345 and WAC 458 20 244).

Conversely, if the meal provider subverts the conditions for tax-free treatment by posting signs, printing tickets, or suggesting so-called donation amounts expected to be paid by meal consumers, then sales do occur and sales tax must be collected. A sign posted such as "Donation \$1.00" creates a taxable

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

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transaction, whereas a sign such as "Donations accepted to support this program" will not be deemed to violate the no-tax situation.

There are programs, other than exempt Older American Act authorized programs, whereby meals are supplied to persons by commercial food preparers who purchase and prepare food without charge to the meal consumer, but where payment is made to the food preparer by nonprofit or charitable organizations. In such cases the payment is subject to sales tax irrespective of any bona fide donations which may be received by the organizations. However, where food is purchased by the donor organization and prepared by another person under contract with the donor organization, the donor owes no sales or use tax.

This bulletin deals only with food (meals) assistance programs and has no application to similar programs involving other products, goods, or services.